

1                   **STAFF BRIEFING ON INTERNET GAMBLING**

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3                   CHAIRMAN JAMES: We're now ready to begin our staff  
4 briefing on Internet gambling. This issue, in addition to being  
5 highly controversial, and subject to growing media coverage  
6 represents a field that is really developing at an incredible  
7 rate. Allison Flatt, a member of the Commission staff, who has  
8 researched this issue and has prepared a report that was included  
9 in our briefing, and Allison will now summarize that research for  
10 us and show us a very short video presentation. Thank you,  
11 Allison.

12                  MS. FLATT: Thank you. Good afternoon. I'm going to  
13 give you a quick overview of the Internet and Internet gambling  
14 so you'll have some context for the policy issues that are going  
15 to be discussed by our expert panelists. They will be discussing  
16 what is really at the heart of the controversy surrounding this  
17 issue and that is, whether the United States should regulate or  
18 prohibit Internet gambling and how such policies can be enforced.

19                  Before they get started, though, I thought it would  
20 be helpful to back up a bit and have a little crash course on the  
21 Internet for those of you who don't use it. Of course, the  
22 Internet is called the World Wide Web, but I, with diligent  
23 research, was able to find the one place it still isn't  
24 available, and that's this room. I had planned a live  
25 demonstration of Internet gambling but I recently learned that  
26 it's not technically feasible. So instead we have a video tape.  
27 I hope this will at least give you an idea of what it looks like  
28 and what kinds of games are available on the Internet. This tape  
29 was made using Web TV which is a technology that allows people to

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1 access the Internet with TVs instead of a computer. The content  
2 is exactly same but it might look a little bit different than  
3 your computer screen at home.

4 There's also some jazzy music at certain points which  
5 is a feature available on Web TV and on some personal computers.  
6 It's not something we dubbed in. Also the projection is a little  
7 bit blurry. We haven't been able to correct that.

8 MS. FLATT: This is not a gambling website. This is  
9 the industry publication, and the editor of that is one of our  
10 panelists. It's called Rolling Good Time On Line and it provides  
11 links to other gambling sites and information for Internet gaming  
12 operators.

13 This is a list of other links to other gambling  
14 sites. So you'll start seeing some lists here of different  
15 gambling sites you can click into.

16 This is a gambling website. This is another list of  
17 links. It will give you an idea of how many there are out there.

18 MS. KENNEDY: So you just click on those?

19 MS. FLATT: Right. Notice here, it shows some of the  
20 locations, Cook Island, Antigua, Vegas, Australia. These are  
21 also links, just a different graphic of sites you can click into  
22 to gamble.

23 MS. KENNEDY: Those are virtual casinos?

24 MS. FLATT: Yes.

25 COMMISSIONER LEONE: Where it says Nevada Casino, is  
26 that the brand name?

27 MS. FLATT: I don't know if that means it's in Nevada  
28 or not. It could be.

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1           This shows the part where someone would log in. I  
2 guess they would have previously set up an account and establish  
3 an account name and then have a password. I didn't do this. I  
4 want to make that clear.

5           So he's going to go here and start clicking on these  
6 different games. So there's several games offered on this one  
7 site.

8           Those are just a couple more gambling sites,  
9 different ones.

10          MS. FLATT: I'm presuming that you have varying  
11 levels of familiarity with this technology. So I'm going to  
12 start with the basic description of how it is used for gambling.  
13 Bear with me if this is a little too rudimentary for some of you.

14          The Internet is a complex web of computer networks.  
15 It's frequently analogized to a complicated highway system,  
16 linking personal computers to each other for a small fee charged  
17 by an Internet service provider such as America Online. Our  
18 panelists may refer to these kinds of companies as ISPs. The  
19 cost of a local telephone call, a user can use the Internet to  
20 communicate with people and companies all over the world.

21          Anything that can be converted into digital form can  
22 be made available on the Internet. As you can see from the video  
23 tape, this includes text, pictures, advertisements, information,  
24 music, games of course, as well as data bases and voices, really  
25 just about anything. The breadth of what is available on the  
26 Internet surpasses any data source we have ever seen. It ranges  
27 from scholarly resources and news and entertainment to phone  
28 directories and maps and information on any conceivable  
29 recreational interest or activity.

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1           It is also a tool for commercial transactions and for  
2 communication between individuals which of course can facilitate  
3 any number of illegal activities, ranging from consumer fraud to  
4 the exchange of child pornography. There is no global gatekeeper  
5 or licensor for what information or activity can take place on  
6 the Internet and therefore, law enforcement officials, in  
7 different jurisdictions all over the world, have thus far  
8 attempted to apply a patchwork of laws that were usually drafted  
9 for other mediums like telephones, for instance, to control what  
10 takes place there.

11           Using the Internet, as you can see, is extremely  
12 easy. One doesn't need to understand the technology to jump  
13 right in and use it. I'm not going to even attempt to explain  
14 what actually happens in cyberspace when an individual navigates  
15 their way through the web. Instead I will just give you an idea  
16 of how easy it is for an Internet user to go about finding what  
17 she wants, be it gambling or anything else.

18           Often a user finds a particular destination on the  
19 website, like what you just saw in the video, through the use of  
20 a search engine which is itself a website, that indexes available  
21 information by key words. For example, a user could type in the  
22 words gambling or casino in the search engine and it would  
23 deliver a list of websites along with a brief description of  
24 their contents. These websites could be operated from anywhere,  
25 Antigua, Australia, anywhere. But a user in the United States  
26 need only click her mouse on the name of the website in order to  
27 access it, and the whole process would take under a minute.

28           The history of Internet gambling is short. It has  
29 only existed for about three years. The gambling websites

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1 started to appear in the summer of 1995. At that time very few  
2 provided gambling with real money, instead they simply attempted  
3 to simulate games without actual wagering. Internet technology  
4 could not make them as fast as real casino games, however, and  
5 they didn't seem to have widespread appeal.

6 In the following few years remarkable advancements in  
7 Internet technology have made the games faster and more  
8 entertaining. At the same time consumer confidence in Internet  
9 commerce has begun to increase. As a result, the gambling  
10 companies have flourished. And there is in this short time an  
11 Internet gambling industry offering nearly every type of gambling  
12 with real wagering.

13 Internet gambling companies are relatively small  
14 operations. Most of them are in the Caribbean but they also  
15 exist in Central America, South America, Australia, Europe, South  
16 Africa and the United States. As of last week there were 90  
17 online casinos, 39 lotteries, 8 bingo games, 53 sports bookies  
18 and additional horse and dog related sites.

19 The reason I qualify this by saying "as of last week"  
20 is that the web is constantly in flux. A website can literally  
21 exist one day at a particular location, be gone the next day and  
22 pop up again at a different location somewhere else. It is  
23 constantly growing and changing which is one reason law  
24 enforcement officials have such a tough time trying to control  
25 it.

26 Estimates of the amount of revenue generated by the  
27 industry are uncertain at best. No one but the operators  
28 themselves knows for sure how much they really make and they

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1 aren't telling. Predictions for future growth range from \$1.5  
2 billion to \$10 billion or more by the year 2000.

3 Another reason these predictions vary so much is  
4 because the legal status of the activity in the United States and  
5 in other countries has been somewhat ambiguous, and growth is  
6 hard to estimate under these circumstances. However, the gray  
7 areas of the legal status of Internet Gambling in this country  
8 may be resolved soon. Pending legislation to ban it is working  
9 its way through Congress, and it is spurring a spirited debate  
10 for what the best government response should be given that this  
11 is a global technology presenting unique jurisdictional and  
12 enforcement issues.

13 The jurisdictional issues associated with the  
14 Internet are quite complex. I want to emphasize that it is the  
15 Internet generally, not just Internet Gambling. In short, the  
16 ability of the Internet to facilitate quick and easy interactions  
17 across any and all geographic boundaries makes it difficult to  
18 apply traditional notions of state and federal jurisdictions.

19 The best way to illustrate this is by example. As  
20 you all know, gambling regulation has always been a state rather  
21 than a federal function in this country. The Missouri Attorney  
22 General considers Internet Gambling illegal. But if a Missouri  
23 resident bets on a gambling website operated from Antigua, has  
24 the transaction taken place in Missouri where it is considered  
25 illegal or in Antigua where it is considered legal? In other  
26 words, has the Antigua gambling operator, by taking a bet from a  
27 Missouri resident had sufficient contact with the state to be  
28 subjected to its jurisdiction?

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1           And what if it doesn't take a bet but simply  
2 maintains a website that could be accessed by a Missouri  
3 resident? Is that enough? The answers to these questions would  
4 vary depending on whom you ask. And it turns on how one  
5 characterizes what happens on the Internet. Some argue that the  
6 Missouri bettor travels to Antigua when she places a bet and that  
7 the transactions take place there. Others argue that the  
8 financial transaction takes place in Missouri, thereby subjecting  
9 the operator to state jurisdiction.

10           Now, this issue is further complicated by the fact  
11 that the users navigate the web anonymously. It is hard to tell  
12 where the players are coming from, so even if the operators want  
13 to comply with state laws, it's hard for them to know where these  
14 people are coming from and screen them out.

15           Since the briefing materials were mailed to you there  
16 has been a significant development in this area. Back in 1995  
17 Minnesota Attorney General Hubert Humphrey commenced a civil  
18 action against an Internet gambling operator located in Nevada,  
19 alleging that he violated false advertising laws because the  
20 website claimed that Internet gambling was legal. The website  
21 operator who operated the company called Granite Gate Resort  
22 moved to dismiss the case stating that he has never taken a bet  
23 from anyone and that he cannot be sued in Minnesota for a website  
24 he operates in Nevada.

25           Last week the Minnesota Supreme Court affirmed an  
26 earlier ruling that the state does indeed have jurisdiction over  
27 this Nevada defendant. The defendant in this case suggested that  
28 he may appeal this ruling to the United States Supreme Court.

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1 Enforcement of state laws over an out-of-state  
2 gambling operator may be feasible and the ramifications of the  
3 Granite Gate decision will be significant. But state officials  
4 are faced with difficult enforcement issues when the operators  
5 are off shore, and most of them are. The obstacles to hailing a  
6 foreign defendant into a state court will be discussed at length  
7 by our panelists. Let me just say, however, that it is very  
8 difficult to do, often impossible.

9 Although State Attorneys General have had some  
10 success with consumer protection actions against Internet  
11 Gambling operators in the United States, the global reach of the  
12 Internet and its easy accessibility has led them to take the  
13 unusual stance of requesting federal intervention. They cite  
14 concerns about fraud and participation of minors and contend that  
15 it is just too difficult to try to impose the varying state  
16 standards and regulations on a medium that crosses all  
17 boundaries.

18 So, the current debate in this country is now focused  
19 on what federal response should be taken. The Internet gambling  
20 industry is in the unusual position of lobbying for regulation.  
21 They believe that regulation in the United States will add to  
22 their credibility, protect consumers and spur further growth. As  
23 you may be aware, there are bills pending in Congress that would  
24 prohibit Internet gambling in this country.

25 The Internet Gambling Prohibition Act also known as  
26 the Kyl bill after its sponsor, John Kyl of Arizona would amend a  
27 statute designed to target bookies to better encompass Internet  
28 gambling activities. It would be enforced through fines,  
29 imprisonment and mandated closings of gambling sites.

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1           The last word I had from Senator Kyl's office was  
2   that the bill had gone through Committee and then it could go to  
3   the floor for a vote at anytime.

4           A recent and important development in the debate over  
5   prohibition versus regulation is that the state of Queensland in  
6   Australia has passed legislation to regulate this activity based  
7   on a national model that was created for cooperation between  
8   Australia and states. This will likely lead the way for other  
9   Australian states to the do the same.

10          We have a representative from the Victoria Casino and  
11   Gaming Authority in Australia here, and he can tell you more  
12   about the model and why Queensland decided to regulate. The  
13   implications of this, however, are that the industry is likely to  
14   grow in Australia, and those websites will continue to be  
15   available to consumers in the United States.

16          In conclusion, I want to point out that the panel  
17   today will be focusing on the broad policy issues that are at the  
18   core of this controversy. But both the pari-mutuel wagering  
19   industry and the Indian gaming community have an interest in the  
20   pending legislation, and how the policy decisions made about  
21   Internet gambling their utilization of new technology. Those  
22   issues are likely to surface at subsequent meetings.

23          Finally, I would like to point out that this is a  
24   unique topic for this Commission, in that it is being followed by  
25   individuals and private interest groups that have absolutely  
26   nothing to do with gambling. I'm referring to legal and  
27   constitutional scholars who see this as a free speech and privacy  
28   issue and to Internet related industries who don't have anything  
29   to do with gambling. Gambling is one of the first issues to

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1 clearly illustrate how the law has not yet caught up with the  
2 Internet. Whatever happens with the government response to  
3 Internet gambling in the near future could set precedent for  
4 Internet policy generally.

5 CHAIRMAN JAMES: Thank you very much. Any questions  
6 for Miss Flatt before we go onto our panel?

7 COMMISSIONER LEONE: Are there other bills that would  
8 regulate the Internet gambling that we should know about?

9 MS. FLATT: There's a House bill sponsored by  
10 Congressman Goodlatte that is somewhat less restrictive. I  
11 wouldn't characterize it as regulation but it makes fewer  
12 modifications to the Wire Act which is the same statute that the  
13 Kyl bill is targeted at. It allows a lesser degree of  
14 restriction.

15 MR. TERWILLIGER: I just would note in response to  
16 your question, Commissioner Leone, that for the benefit of the  
17 completeness of the record I think this is a great job and a  
18 great survey. To the extent that any of these operations involve  
19 fraud, such as a rigging of the odds and that sort of stuff, it  
20 would be covered by existing federal wire fraud statutes.

21 COMMISSIONER LEONE: Even if they originate out of  
22 the country?

23 MR. TERWILLIGER: They would, because wire fraud  
24 covers any operation in domestic or international commerce where  
25 the commerce touches the United States.

26 COMMISSIONER LEONE: But I take it that means  
27 misrepresenting the odds.

28 MR. TERWILLIGER: Right, or perhaps failure to pay off  
29 a win or something of that sort.

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1           COMMISSIONER LEONE: This is a very helpful survey,  
2 particularly for those of us who don't know much about the  
3 Internet.

4           It looks like, from the video, that you would play  
5 this by using a credit card or else establish a special account.

6           MS. FLATT: Right.

7           COMMISSIONER LEONE: That presumably means there  
8 would be possibly some accessed information through the credit  
9 card companies.

10          MS. FLATT: That's right.

11          COMMISSIONER LEONE: Volume at least or activity  
12 that's going on.

13          CHAIRMAN JAMES: With that, I want to thank you. It  
14 was an excellent report, very helpful to us to frame the rest of  
15 our discussion.

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